

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**WILLIAM MARTUCCI,**

**Plaintiff,**

**v.**

**GERARDO GONZALEZ, YAMEL  
GONZALEZ a/k/a YAMEL MARTUCCI  
GONZALEZ, AND JOHN AND JANE  
DOES,**

**Defendants.**

Docket No.: 14-cv-3267-WJM-  
MF

**OPINION & ORDER**

**WILLIAM J. MARTINI, U.S.D.J.:**

This matter comes before the court upon Defendants' motion to vacate default and Plaintiff's cross-motion for default judgment. For the reasons set forth below, Defendants' motion is granted, and Plaintiff's cross-motion is denied.

**I. BACKGROUND**

On September 15, 2014, this Court issued an Order and Opinion on Plaintiff's previous motion for default judgment and Defendants' previous cross-motion to vacate default. The relevant factual background and legal standards are written in that Opinion, so we need not repeat them here. The Order denied both motion and cross-motion. In that Opinion, the Court stated that

[Defendants'] briefing contains the germs of meritorious defenses, but it lacks any firm factual denials or legal defenses. Moreover, Defendants failed to attach an Answer to the Complaint, as Local Civil

Rule 7.1 requires. The court will deny the [Defendants'] motion [to vacate default] due to the procedural and substantive infirmities in Defendants' motion. Denial is without prejudice. The Defendants may file another motion that presents a well-stated meritorious defense and attaches a proposed Answer to the Complaint within 30 days of the order.

(ECF No. 9).

Within 30 days of the order, Defendants filed an Answer and a new motion to vacate default. This motion contains meritorious defenses. For example, the Defendants claim that Plaintiff has no proof of damages. Finding good cause to vacate default,

**IT IS** on this 19<sup>th</sup> day of November 2014 hereby

**ORDRED** that Defendants' motion to vacate default is hereby **GRANTED**; and it is further

**ORDERED** that Plaintiff's motion to enter default judgment is hereby **DENIED**.

/s/ William J. Martini

---

**WILLIAM J. MARTINI, U.S.D.J.**